

Hearsay Rules in Trials of Offenses of the Organized Crime Prevention Act

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Abstract

According to the middle section of Paragraph 1 of Article 12 of the Organized Crime Prevention Act, which provides: “The inquisition report of a witness may only be included as part of the evidence where it is prepared before a judge or a prosecutor in accordance with the procedure set forth in the Code of Criminal Procedure,” the police-prepared inquisition report is inadmissible in trials of offenses of the Act. However, it is questionable to apply this section after the hearsay rules is adopted in the Code of Criminal Procedure. This study bases on the American experience to claim that subjecting the victim or witness to violence, coercion, intimidation or other retaliatory actions is itself not enough to deprive the right to confront of the accused in addition to exploring the background behind the section. And excluding the police-prepared inquisition report absolutely might over-exclude it as evidence, which does not comply with the hearsay rationale and might be against the goal of the Act, set forth in Article 1 of the Act, providing “The Organized Crime Prevention Act is established to prevent organized criminal activities and to maintain social order and protect the interests of the public.” Therefore, after passing the hearsay rules, it is not necessary to apply the middle section of Paragraph 1 of Article 12 of the Organized Crime Prevention Act in organized crime cases no more.

Keywords: the Organized Crime Prevention Act, testimonial hearsay, Hearsay Rules, admissibility, confrontation

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